

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Examiner: E. B. Elhilo;    Art Unit: 1796;    Docket No.: 3321**

**In RE:                    Application of Juergen SCHMENGGER, et al**

**Ser. No.:                10/541,104**

**Filing Date:           June 30, 2005**

**Title:                    DYE-CONTAINING PELLETS FOR COLORING KERATIN  
FIBERS**

July 10, 2008

**APPEAL BRIEF**

Hon. Commissioner of Patents  
and Trademarks,  
Washington, D.C. 20231

Sir:

In response to the final Office Action dated December 17, 2007 and the advisory action dated March 25, 2008, please consider the following arguments for overturning the rejections of the pending claims of the above-identified U.S. Patent Application:

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## **I. REAL PARTY IN INTEREST**

The real party in interest is WELLA AG, which owns 100 % of the above-identified U.S. Patent Application and which is now a subsidiary of PROCTER AND GAMBLE.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences.

### **III. STATUS OF THE CLAIMS**

1. Claims 1 to 12 were canceled by an amendment filed October 11, 2007.
2. Claims 13 to 24 were added by the amendment filed October 11, 2007 and are currently pending.
3. Claims 13 to 14 and 16 to 24 stand rejected under 35 U.S.C. 103 (a) as obvious over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1) according to the final Office Action dated December 17, 2007.
4. Claim 15 stands rejected under 35 U.S.C. 103 (a) as obvious over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1), and further in view of Miczewski, et al (US 2004/0045101 A1) according to the final Office Action dated December 17, 2007.
5. Claims 13 to 24 are the claims on appeal, i.e. the rejection each of claims 13 to 24 is being appealed.

#### **IV. STATUS OF THE AMENDMENT AFTER FINAL ACTION**

1. A request for reconsideration, which only contained argumentation to overcome the obviousness rejections, was filed on March 11, 2008. No claim changes were proposed.
2. The advisory action dated March 25, 2008 stated that the arguments in the request for reconsideration were not sufficient to overcome the obviousness rejections and put the above-identified application in a condition for allowance.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

The page and line numbers in the following summary of the claimed subject matter refer to the location of that subject matter in the appellants' specification. However note that the specification was amended on October 11, 2008 to change "Appendix 1" and "Appendix 2" to "Figure 1" and "Figure 2", because they were flow charts of the methods that the appellants have invented to produce the coated dye-containing pellet of claims 13 to 19. Methods of producing the dye-containing pellet are claimed in claims 20 to 24.

This summary of the claimed subject matter is divided into three parts. The first part describes the subject matter of the sole independent coated dye-containing pellet claim 13. The second part describes the subject matter of the remaining independent method claim 20 for a method of making a colorant for keratin fibers. The third part described the subject matter of dependent claim 15, which is argued separately.

### **1. COATED DYE-CONTAINING PELLET CLAIM 13**

The coated dye-containing pellet, which is claimed in independent claim 13, comprises a dye-containing pellet and a coating material that coats the dye-containing pellet. The dye-containing pellet of claim 13 contains a carrier material

and from 0.1 to 70 wt. percent of at least one oxidation dye precursor uniformly mixed in the carrier material (see page 5, lines 16 to 17, of the specification).

The wording of claim 13 is supported by disclosures in various locations in the appellants' originally filed specification. Page 1, lines 26 to 28, of the appellants' specification state that the coated dye-containing pellet of claim 13 is obtained by uniformly (homogeneous) mixing at least one natural and/or synthetic dye with a suitable carrier material and then coating with a suitable encapsulation material. Suitable encapsulation materials are water-soluble or water-dispersible film-forming substances ... that encase or coat the pellet (page 3, lines 20 to 22, of appellants' specification). Preferred carrier materials are claimed in dependent claim 16 and preferred coating materials are claimed in dependent claims 17 and 18.

The appellants' specification teaches that in preferred embodiments of their coated dye-containing pellet the at least one natural and/or synthetic dye can comprise oxidation dye precursors in an amount of 0.1 to 70 wt. % (page 5, lines 16 to 17, of the specification). The specification also discloses a large number of preferred oxidation dye precursors (developers and couplers) on page 3, line 28 to page 5, line 15.

The advantages of the coated dye-containing pellet according to claim 13 are described on page 9, lines 23 to 35, of the appellants' specification and include storage stability, e.g. protection of the oxidation dye precursors from oxidation by air oxygen due to the coating, delayed release of the oxidation dye precursors depending on the thickness and chemical composition of the coating,



and production of multi-color effects using a mixture of pellets with different oxidation dye compounds. Also the pellets overcome the known disadvantages of powdered oxidation dye precursors, which include dust generation during usage, and of oil-treated oxidation dye compound powders.

## **2. METHOD OF MAKING A COLORANT CLAIM 20**

Claim 20 is a three-step method claim that claims a method of making a colorant for keratin fibers. Steps a) and b) of claim 20 cover a method of making at least one coated dye-containing pellet, in which the dye containing pellet is obtained by uniformly mixing from 0.5 to 50 percent by weight of at least one oxidation dye precursor with a carrier material. The support in the specification for these two steps has already been explained above in section 1, with the exception of the amount range for the oxidation dye precursor. The preferred amount range for the oxidation dye precursor compounds of 0.5 to 50 percent by weight is disclosed on page 5, line 17, of appellants' specification.

The step c of mixing the at least one coated dye containing pellet with an aqueous or aqueous-alcoholic preparation is supported by the disclosure in the last paragraph on page 9 of appellants' originally filed specification. Claim 24 and page 10 set forth preferred ingredients of the aqueous or aqueous-alcoholic preparation, which comprise common cosmetic additive ingredients, such as perfume oil, surfactants, thickeners, etc, and of course water with or without lower alcohols, such as ethanol and isopropanol.

### **3. DEPENDENT CLAIM 15**

Dependent claim 15 limits the direct dye compound, which is an additional ingredient mixed in the carrier material of the pellet in preferred embodiments of the coated pellet of claim 13, to various preferred direct dye compounds as claimed in claim 15 and disclosed in the paragraph on page 8, line 33, to page 9, line 11, of the appellants' specification.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

(1) Whether claims 13 to 14 and 16 to 24 are obvious under **35 U.S.C. 103 (a)** over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1).

(2) Whether claim 15 is obvious under **35 U.S.C. 103 (a)** over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1), and further in view of Miczewski, et al (US 2004/0045101 A1).

## **VII. ARGUMENTATION**

Argumentation to show that the aforesaid obviousness rejections of the claims should be overturned is presented in this section. Each ground of rejection is considered separately.

### **1. OBVIOUSNESS REJECTION OF CLAIMS 13 to 14 and 16 to 24**

The issue considered in this part of the argumentation section is whether claims 13 to 14 and 16 to 24 are obvious under **35 U.S.C. 103 (a)** over Satou, et al, in view of Toumi, et al.

#### **A. WHAT THE PRIOR ART TEACHES**

Satou, et al, does disclose and claim a dust-minimizing coated dye-containing granulate that comprises a dye-containing granulate with a coating, which comprises a monosaccharide, an oligosaccharide, or a hydroxypropyl cellulose (claim 1, abstract, and column 1, lines 51 to 56 of Satou, US '195). The dye compound is mixed with a binder in a wet or dry granulation process to form a dye-containing particulate or granulate (various methods are used according to column 2, of US '195). The binder may include starch, dextrin, sodium alginate, gelatin, cellulose derivatives, PVP, or an oligosaccharide (column 1, line 66, to column 2, line 29, of Satou (US '195). After the dye-containing granulate has

been formed the dye-containing granules or particles are coated with a coating agent in a spraying process in which a coating solution is sprayed **while blowing hot air at 40°C to 100°C** (column 2, lines 50 to 52, of US '195). The coating of course suppresses the formation of a dust. The coating compounds may be the same as the binder compounds (column 2, lines 57 to 63, of Satou, et al).

No other method of coating the dye-containing granulate or particulate is described in Satou, et al.

Satou, et al, provides several examples of coated dye-containing granulates in columns 3 to 6, which only contain direct dye compounds. These direct dye compounds include the Reactive Red 217 (example 1), which is an aromatic azo dye of formula 1 in columns 3 and 4 of US '195, the Direct Red 224 (example 2), and the Disperse Blue 259 of example 3. Example 5 discloses a fluorescent dye and example 6 discloses a reactive dye of formula 2.

Toumi, et al, (US '077) discloses that it is known in the hair dyeing arts to include direct dyes in hair dye compositions containing contain oxidation dye precursors (couplers and developers) to modify the color shades produced by the oxidation dye precursors (paragraphs [0005] and [0006]).

The problem that the invention of Toumi solves is disclosed in paragraphs [0006] to [0008]. Some of the dye-containing compositions according to Toumi contain oxidation dye precursors and also direct dyes to modify the color shades produced by the oxidation dye precursors [0006]. Toumi clearly teaches that it is known in the hair dyeing arts to include a reducing agent with the oxidation dye precursors because they are unstable in the presence of oxygen or oxidizing

environments, in other words they will react with oxygen prior to use (see paragraph [0007] of Toumi). However the reducing agent will often degrade or react with the direct dyes, which are unstable in the presence of the reducing agent according to paragraph [0007].

The purpose of the invention of Toumi, et al, is to solve the foregoing problems with dye compositions containing oxidation dye precursors, a reducing agent to protect them, and direct dye compounds to modify the dyed hair color shades by **encapsulating or coating the direct dye** (aromatic dye) so that it is protected from chemical interaction with the reducing agent (paragraphs [0085], [0086] and [0093]; claim 19, lines 5 to 8; claim 25, lines 3 to 5, of US '077) during storage prior to use.

More generally Toumi, et al, disclose encapsulating or embedding a "cosmetic active principle", which can be aromatic, heterocyclic or polycyclic, in a synthetic polymer coating or matrix, which has covalent bonds that can be cleaved by a reagent like hydrogen peroxide to release the active principle when the cosmetic agent is used (claim 1 and paragraphs [0011] to [0017] of US '077). The direct dye mentioned in the above paragraph is one example of a "cosmetic active ingredient". Another example is the sunscreen of paragraph [0020].

Example 1 of US '077 discloses encapsulating an azo dye particulate in a phenylpropylsilsesquioxane of MW 1500 to 2500 g/mol (see paragraphs [0095] to [0097]. Example 1 also discloses experimental results that show that the synthetic polymer coating on the powder particle substantially protected the azo dye from degradation when stored in an ammonia solution with and without the

presence of a sodium metabisulfite reducing agent for a period of two months.

However, even with the polymer coating on the azo dye particles, 5 % of the azo dye particles were degraded by the sodium bisulfite reducing agent.

Example 2 of US '077 discloses a kit that has two components. The component A contains the coated azo dye particulate of example 1, sodium metabisulfite, ammonia, and water. The component B contains the hydrogen peroxide that is necessary to react with the synthetic polymer coating and release the direct dye (the azo dye). The kit that is used for the experimental hair dyeing results described in paragraphs [0105] to [0111] did **not** contain any oxidation dyes according to paragraph [0112]. Paragraph [0113] of US '077 does state that oxidation dye precursors could be included in the kit of example 2 but does not state that they too would be encapsulated. Furthermore if they were encapsulated and protected in that way there would be no need for the reducing agent to protect them during storage and hence no need to encapsulate the direct dyes.

## **B. WHAT THE PRIOR ART DOES NOT TEACH**

Satou, et al, as admitted in lines 1 to 2, of page 3 of the final Office Action does not teach dye compositions containing oxidation dye precursors. Satou, et al, does not mention oxidation dye precursors. Satou, et al, do not disclose coating an oxidation-dye-precursor-containing pellet or granulate with any type of coating.

Satou, et al, do not disclose a suitable method for coating a pellet or

granulate that contains oxygen-sensitive oxidation dye precursor compounds, which react in the presence of an oxidizing agent or oxygen. It is well known in the cosmetic art of hair dyeing that oxidation dye precursor compounds react with oxidizing agents, especially hydrogen peroxide and in some cases air oxygen, to form colored compounds. That is the basic mechanism by which they operate to dye hair. However the oxidation dye precursors must be prevented from oxidizing during preparation, storage and transport, so that they retain their effectiveness prior art to application to the hair.

The second paragraph of the advisory action suggests that appellants should provide evidence on the record that oxidation dye precursor compounds are sensitive to air oxygen or oxidants to support their previous argumentation. It is respectfully submitted that such evidence is available in the prior art of record. Toumi, et al, clearly disclose that oxidation dye compounds are sensitive to oxygen and must be stabilized during storage and transport by including a reducing agent in paragraphs [0005] to [0008] of US '077.

Satou, et al, do not disclose a method of coating or encapsulating a dye-containing particulate or pellet that is suitable for particulates or granulates containing oxidation dye precursors because the only method of coating disclosed in Satou, et al, in column 2, lines 46 to 36, includes the step of blowing hot air containing oxygen at temperatures up to 100°C as the particulate or pellet is being sprayed with a coating agent containing solution. Appellants should not be required to provide a prior art reference that explains that oxidation by air oxygen is greatly accelerated at temperatures of around 100°C in comparison to



oxidation by air oxygen at room temperature.

Tuomi, et al, also do not disclose coating an oxidation-dye-precursor-containing pellet, particulate, powder, or granulate with any type of coating. As explained above, Tuomi, et al, disclose dye compositions containing oxidation dye precursor compounds, a reducing agent to protect the oxidation dye precursor compounds from degradation by oxidation during storage and transport, and direct dye compounds that are in the form of powders or particulate that are coated with a synthetic polymer to protect them from the reducing agent that is used to protect the oxidation dye precursors from oxidation. However there is absolutely no disclosure in Tuomi, et al, that teaches that the oxidation dye precursor compounds are in the form of a particulate or granulate that is coated to delay its release or to protect it during storage. Example 2 of Tuomi, et al, states that oxidation dye compounds could be included in the kit disclosed in their example 2, but does not disclose that the oxidation dye compounds could be in the form of a granulate or particulate that is coated with the synthetic polymer described in their specification.

Thus **neither** Satou, et al, **nor** Tuomi, et al, disclose an oxidation-dye-precursor-containing pellet, particulate, powder, or granulate in which the pellet, particulate, powder, or granulate is coated with any type of coating. The coated dye powders or particulates, which are disclosed in these references, do **not** include any oxidation dye precursor compounds.

### C. WHAT IS NOT OBVIOUS FROM THE PRIOR ART OF RECORD

It is respectfully submitted that the combination of the disclosure of Satou, et al, and Tuomi, et al, leads one skilled in the cosmetic arts away from the claimed invention according to appellants' coated dye-containing-pellet claims 13 to 19 and method claims 20 to 24.

The combination of Satou, et al, and Tuomi, et al, leads one skilled in the art to a hair dye composition that contains oxidation dye precursors, a reducing agent to protect the oxidation dye precursors during storage from oxidative degradation, and a direct dye particulate that is coated with a synthetic polymer, as disclosed in Tuomi, et al.

However the combination of these prior art references leads one skilled in the art away from a hair dye composition including a coated oxidation-dye-precursor-containing granulate, pellet or particulate, which is coated with a binder or synthetic polymer, because neither reference teaches a suitable method for performing the coating of the granulate, pellet, or particulate. High temperatures are required in the coating processes of both references. Example 1 of Tuomi, et al, teaches melting the synthetic polymer at temperatures of 130°C in order to provide the azo dye powder with the coating. Satou, et al, teaches a spray dry process in which the dye-containing powder is sprayed with a coating solution but also with hot air containing oxygen at temperatures up to 100°C. One skilled in the art would be led away from employing these coating processes to coat an oxygen-sensitive oxidation-dye-precursor particulates or granulates because of the potential for reaction and/or degradation of the oxidation dye precursors at

these higher temperatures.

Tuomi, et al, (in their background section) clearly teach that oxidation dye precursors are so sensitive to oxygen that they must be protected by a reducing agent during storage at room temperature. In fact they must be highly reactive to oxidizing agents so that the hair dyeing process is not too difficult or too lengthy to perform and so that the hair is not treated with extremely reactive oxidizing agents that might damage the hair itself. The teaching in Tuomi, et al, regarding oxygen sensitivity of oxidation dye precursors would certainly lead one skilled in the art away from trying to encapsulate or coat the oxygen sensitive oxidation dye precursors with any of the methods disclosed in these references.

It is well established that a prior art reference that contains teaching against or the opposite from a claimed invention cannot be combined under 35 U.S.C. 103 (a) to reject a claimed invention. For example, see M.P.E.P. 2145. X. Also the Federal Circuit Court of Appeals has said:

"In determining whether such a suggestion [of obviousness] can fairly be gleaned from the prior art...It is indeed pertinent that these references teach against the present invention. Evidence that supports, rather than negates, patentability must be fairly considered." ***In re Dow Chemical Co.***, 837 F.2nd 469,473, 5 U.S.P.Q.2d 1529, 1532 (Fed.Cir. 1988)

The evidence regarding oxygen sensitivity of oxidation dye precursor compounds in paragraphs [0005] to [0009] of Tuomi, et al, and the means suggested by Tuomi, et al, to protect the oxidation dye precursor compounds should be fairly considered during examination of the claims. This evidence leads one of ordinary skill in the art away from trying to encapsulate or coat oxidation

dye precursor particulates or granulates with the methods described in Tuomi, et al, or Satou, et al.

Considering the claimed invention and the prior art of record from another viewpoint Satou does **not** put the inventions claimed in applicants' composition claim 13 for dye-containing granulates that contain oxidation dye precursors and in method claim 20 for a process for making the granulate "in the hands of the public", because oxidation dye precursors are sensitive to the presence of a chemical oxidant or air, especially at the high temperatures of Satou, et al, for drying in column 2 of US '195. In other words, one skilled in the cosmetic arts would expect that oxidation dye precursors would be destroyed or at least significantly degraded by the methods of preparing the "non-dustable" dye-containing particulate described in column 2 of Satou, et al.

The foregoing argument shows that it is not accidental that that the disclosure of Satou does **not** mention a single oxidation dye precursor compound or oxidation dye precursor (donors and acceptors).

Furthermore the rebuttal in the advisory action points out that the detail features of the methods for making the coated dye-containing pellet of claim 13 are not included in the appellants' claims. Although it is true that temperature ranges are not included in e.g. claim 20, that fact is not relevant to the above argumentation. What is relevant is that Satou, et al, and Tuomi, et al, both teach the use of a high temperature process steps that have temperatures of 100°C or more to coat the dye-containing particulate. Thus these references do not disclose any method of making a coated dye-containing particulate including

oxidation dye precursor compounds that would have a reasonable expectation of being successful.

One skilled in the art would not expect a method of making a coated dye-containing particulate including oxidation dye precursor compounds that includes exposing the oxidation dye precursor compounds to high temperatures and hot air containing oxygen to have a reasonable expectation of success. On the contrary one skilled in the art would expect oxidation dye precursor compounds that are effective in hair dyeing processes to be highly reactive to air oxygen at high temperatures, e.g. over 100°C.

Although obviousness does not require absolute predictability, at least some degree of predictability is required. See M.P.E.P. 2143.03 and *In re Rinehart*, 189 U.S.P.Q. 143(C.C.P.A. 1976). Here in the case of the instant claims 13 to 24 there is no reason to expect that it would be possible to avoid air oxidation of the oxidation precursor compounds in the coating processes of the prior art of record, which are performed at high temperatures up to 100°C and more.

Furthermore appellants have not included product-by-process wording in claim 13 because it is disregarded or not given weight during examination of product claims.

The appellants' claimed product of independent coated dye-containing-pellet claim 13 is in fact surprising from the disclosures in the prior art references, especially Tuomi, et al. These disclosures in the prior art of record, which lead one to conclude that the subject matter of claim 13 is the opposite from obvious,

include the disclosure of the sensitivity of the oxidation dye precursor compounds to air oxygen during storage and the suggested means to protect against that oxidative degradation disclosed in Tuomi, et al, namely the inclusions of a reducing agent in the composition.

Toumi, et al, includes further teaching **against encapsulating or coating** the oxidation dye precursors because Tuomi, et al, teach that the direct dyes are encapsulated in the polymer matrix to allow time for the oxidation dye precursors to react with the preferred hydrogen peroxide oxidizing agent so that the dyeing process begins prior to releasing the entire amount of the direct dye from the synthetic polymer matrix, since it would otherwise react with the stabilizing (reducing) agent that is present at the start of the oxidation dyeing process (see paragraph [0007] and [0008] and [0113] of US '077).

Clearly the foregoing disclosures comprise teaching against the invention as claimed in applicants' claims 13 and 20, which requires the encapsulation or coating of a particulate comprising oxidation dye precursors. It is well established that a prior art reference that contains teaching against or the opposite from a claimed invention cannot be combined under 35 U.S.C. 103 (a) to reject a claimed invention. For example, see M.P.E.P. 2145. X.

For the foregoing reasons Honorable Board of Patent Appeals and Interferences is respectfully requested to overturn the rejection of claims 13, 14, and 16 to 24 as obvious under **35 U.S.C. 103 (a)** over Satou, et al, in view of Toumi, et al.

## 2. OBVIOUSNESS REJECTION OF CLAIM 15

The issue considered in this part of the argumentation section is whether dependent claim 15 is obvious under **35 U.S.C. 103 (a)** over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1), and further in view of Miczewski, et al (US 2004/0045101 A1).

Miczewski, et al, discloses liquid dye compositions containing, in polar solvent, association structures, which contain at least one water-soluble or water-dispersible dye compound. See paragraph [0015] of US '101. The purpose of these liquid dye compositions of is to touch up dyed hair in between dyeing with the more permanent oxidative dye compositions (see paragraphs [0005] and [0006] of US '101).

The dye compounds contained these liquid dye compositions are all direct dye compounds of certain types. See paragraph [0026] of Miczewski, et al. The more permanent oxidation dye compositions are not described in Miczewski, et al. Miczewski, et al, does not disclose any oxidation dye precursor compounds. Thus Miczewski, et al, cannot provide a source of the modifications of the disclosures in Satou, et al, and Tuomi, et al, that are necessary to make a coated dye-containing pellet that includes oxidation dye precursor compounds obvious.

Also the examples of Miczewski do not describe the details of the oxidation dye compositions that are used to permanently dye the hair, which are not the subject of their invention. Only liquid touch-up compositions are

described.

Miczewski, et al, do not contain any disclosure that would lead one skilled in the art to the appellants' invention as claimed in claims 13, 14 and 16 to 24. Thus this secondary reference does not help establish a case of *prima facie* obviousness of the independent claim 13.

The claimed subject matter of dependent claim 15 includes the subject matter of independent claim 13 because it depends on claim 13. For that reason Miczewski, et al, does not establish a case of *prima facie* obviousness of the dependent claim 15.

Miczewski, et al, does disclose some of the particular direct dye compounds disclosed in claim 15, namely Basic Brown 17. However Miczewski teaches nothing more for the appellants' claimed inventions than an encyclopedia that lists these direct dye compounds.

For the foregoing reasons Honorable Board of Patent Appeals and Interferences is respectfully requested to overturn the rejection of claim 15 as obvious under **35 U.S.C. 103 (a)** over Satou, et al (US 5,017,195), in view of Toumi, et al (US 2004/0166077 A1), and further in view of Miczewski, et al (US 2004/0045101 A1).



## VIII. APPENDIX OF CLAIMS

A clean copy of the pending claims on appeal follows herein below.

13. A coated dye-containing pellet comprising a dye-containing pellet and a coating material that coats said dye-containing pellet;

wherein said dye-containing pellet contains a carrier material and from 0.1 to 70 percent by weight of at least one oxidation dye precursor, and said at least one oxidation dye precursor is uniformly mixed in the carrier material.

14. The coated dye-containing pellet as defined in claim 13, wherein said dye-containing pellet contains at least one direct dye.

15. The coated dye-containing pellet as defined in claim 14, wherein said at least one direct dye is selected from the group consisting of hydroxyethyl-2-nitro-p-toluidine, 2-hydroxyethylpicramic acid, 4-nitrophenylaminourea, Basic Violet 2, Disperse Violet 1, HC Blue No. 2, HC Blue No. 12, HC Red No. 13, HC Red No. 3, 4-amino-3-nitrophenol, 4-[(2-hydroxyethyl)amino]-3-nitrophenol, HC Red No. 10, HC Red No. 11, 2-chloro-6-ethylamino-4-nitrophenol, 2-amino-6-chloro-4-nitrophenol, HC Yellow No. 13, Basic Blue No. 99, Basic Brown No. 16, Basic Brown No. 17, Basic Red No. 76, Basic Yellow No. 57, 2,6-diamino-3-[(pyridin-3-yl)azo]-pyridine and salts thereof.

16. The coated dye-containing pellet as defined in claim 13, wherein said carrier material is selected from the group consisting of polyvinyl pyrrolidones, dextrose, oligosaccharides, microcrystalline cellulose derivatives, physically modified starches, chemically modified starches, physically modified starch derivatives, chemically modified starch derivatives, synthetic calcium silicate, diatomite, silicon dioxide and free-flowing non-baking powders.

17. The coated dye-containing pellet as defined in claim 13, wherein said coating material is selected from the group consisting of cellulose derivatives, polyethylene dispersions, polyacrylic acids, polyvinyl alcohols, polyvinyl pyrrolidones, polycarbonates, polyesters, polyamides and natural film-formers.

18. The coated dye-containing pellet as defined in claim 17, wherein said natural film-formers include chitosan, shellac, oligosaccharides and colophony.

19. The coated dye-containing pellet as defined in claim 13, wherein said at least one oxidation dye precursor is selected from the group consisting of 2,5-diaminotoluene, 2,4-diaminophenoxyethanol, resorcinol, 2-methylresorcinol, m-aminophenol, 4-amino-m-cresol, 4-amino-2-hydroxytoluene, 6-amino-m-cresol, 2-amino-4-hydroxyethylaminoanisole, 1-naphthol, hydroxyethyl-3,4-methylenedioxyaniline, 2,5-diaminophenylethanol, N,N-bis-(2-hydroxyethyl)-

p-phenylenediamine, phenylmethylpyrazolone, 1-hydroxyethyl-4,5-diaminopyrazole, 2-amino-6-chloro-4-nitrophenol and salts thereof.

20. A method of preparing a colorant for keratin fibers, said method comprising the steps of:

a) uniformly mixing from 0.5 to 50 percent by weight of at least one oxidation dye precursor with a carrier material to form at least one dye-containing pellet;

b) coating the at least one dye-containing pellet with a coating material to obtain at least one coated dye-containing pellet; and then

c) mixing the at least one coated dye-containing pellet with an aqueous or aqueous-alcoholic preparation.

21. The method as defined in claim 20, wherein said carrier material is mixed with from 1 to 70 percent by weight of at least one direct dye to form said at least one dye-containing pellet.

22. The method as defined in claim 20, wherein said carrier material is selected from the group consisting of polyvinyl pyrrolidones, dextrose, oligosaccharides, microcrystalline cellulose derivatives, physically modified starches, chemically modified starches, physically modified starch derivatives, chemically modified starch derivatives, synthetic calcium silicate, diatomite, silicon dioxide and free-flowing non-baking powders.

23. The method as defined in claim 20, wherein said coating material is selected from the group consisting of cellulose derivatives, polyethylene dispersions, polyacrylic acids, polyvinyl alcohols, polyvinyl pyrrolidones, polycarbonates, polyesters, polyamides, chitosan, shellac, oligosaccharides and colophony.

24. The method as defined in claim 20, wherein said aqueous or aqueous-alcoholic preparation is selected from the group consisting of water, mixtures of water and C<sub>1</sub> - C<sub>6</sub> alcohols, hydrogen peroxide solutions, hydrogen peroxide emulsions, hair cleaning agents, hair conditioners and hair-firming agents.

## **IX. EVIDENCE APPENDIX**

NONE

**X. RELATED PROCEEDINGS**

NONE

## **XI. SIGNATURE**

In view of the foregoing, favorable allowance is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Striker", with a long horizontal flourish extending to the right.

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